

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DERRICK ROBERTS,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.
)	
DIAMOND TRANSPORATION,)	
INC., SENTRY SELECT)	
INSURANCE COMPANY,)	
ANTONIO ALVAREZ, ABC)	
CORP., DEF. CORP., AND JOHN)	
DOE.)	
)	
Defendants.)	

NOTICE OF REMOVAL

TO: The Judges of the United States District Court, Northern District of Georgia

COME NOW Defendants Diamond Transportation, Inc., Antonio Alvarez and Sentry Select Insurance Company, and respectfully show the Court as follows:

1.

A civil action was brought against the said Defendants in the State Court of Fulton County, State of Georgia, by the above-named Plaintiff, said action being designated as Civil Action File No. 21EV007660. It has now been demonstrated through Plaintiff's recent discovery responses that the Plaintiff seeks to recover from the Defendants a sum in excess of \$75,000, exclusive of interest and costs.

2.

Plaintiff's Response to Defendants' Request for Admissions was served on Defendant's counsel on March 28, 2022.

3.

The said discovery response disclosed that while Plaintiff is still collecting documentation of special damages, Plaintiff is seeking more than \$75,000 in general damages (Plaintiff's Response to Defendants' Request for Admissions, Nos. 1 through 4).

4.

The averments of Plaintiff's Complaint in this matter had not stated any amounts for what that Plaintiff was seeking in damages.

5.

The ad damnum clause of Plaintiff's Complaint also did not specify any specific amounts of money being sought as damages.

6.

The Plaintiff's Interrogatory responses show that Plaintiff resides in Fayetteville, Georgia. (Plaintiff's Response to Defendants' Interrogatories No. 1).

7.

Plaintiff is a citizen and resident of the State of Georgia.

8.

Plaintiff's Complaint shows that Diamond Transportation, Inc. is foreign corporation situated in Texas, Antonio Alvarez is a resident of the State of Texas and Sentry Select Insurance Company is also a foreign corporation. (Complaint, paragraphs 1 through 3.

9.

The corporation records of the Georgia Secretary of State also show that Sentry Select Insurance Company is a Wisconsin corporation (2022 Annual Registration form attached hereto or filed herewith as Exhibit 41).

10.

There is complete diversity of citizenship among the parties in this matter.

11.

It has now been shown by discovery responses that Plaintiff is seeking an amount of damages that exceeds the \$75,000 jurisdictional limit for federal jurisdiction based on diversity of citizenship.

12.

Under 28 USC § 1446(b)(3), if the case stated in the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the Defendant of an amended pleading, order or "other paper" from which it may first ascertain that the case is one which is or has become removable.

13.

Under 28 USC § 1446(c)(3)(A), if the case stated in the initial pleading is not removable because the amount in controversy does not exceed the amount specified in 28 USC § 1332(a), information related to the amount in controversy shown in responses to discovery shall be treated as an “other paper” under 28 USC § 1446(b)(3).

14.

The present case is now subject to removal to federal court based on diversity of citizenship jurisdictional grounds.

15.

This Notice of Removal is filed within 30 days of receipt of such “other paper” from the Plaintiff.

16.

Defendant attaches hereto or separately files herewith the pleadings from the underlying state court action, numbered as Exhibits 01 through 40.

17.

The Plaintiff’s Complaint in the underlying action is identified as Exhibit 01, the Plaintiff’s Response to Defendants’ Request for Admissions is identified as Exhibit 39, and the Plaintiff’s Response to Defendants’ Interrogatories to Plaintiff is identified as Exhibit 37.

18.

This action could have originally been brought in this Court under 28 USC §1332, in that it is a civil action wherein the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is diversity of citizenship between the parties.

19.

Pursuant to 28 USC § 1441, et seq., this action is now removable by reason of diversity of citizenship, there being diversity of citizenship and more than \$75,000 in controversy, exclusive of interest and costs.

20.

Notice of Removal is hereby given in accordance of 28 USC § 1446.

WHEREFORE, Defendants Diamond Transportation, Inc., Antonio Alvarez, and Sentry Select Insurance Company files this their Notice of Removal of this lawsuit to this court.

Respectfully submitted, this 12th day of April, 2022.

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/s/ Dale C. Ray, Jr.

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RULE 5.1 B CERTIFICATE OF TYPE, FORMAT, AND FONT SIZE

Pursuant to Local Rule 5.1B of the United States District Court of the Northern District of Georgia, the undersigned certifies that the foregoing submission to the Court was computer processed, double spaced between lines, and used Times New Roman font of 14 point size.

This 12th day of April, 2022.

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CERTIFICATE OF SERVICE

This is to certify that I have this date served upon counsel for the opposing parties in the foregoing matter a copy of the foregoing NOTICE OF REMOVAL with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following counsel of record.

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This 12th day of April, 2022.

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